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C O N F I D E N T I A L SECTION 01 OF 03 ABU DHABI 000675

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SUBJECT: AMERICANS AND EMIRATIS HIGHLIGHT POSITIVES OF FA,  
BUT NOTE CONCERNS

REF: DUBAI 506

(U) Classified by DCM Richard A. Albright, reasons 1.4 (b)  
and (d).

11. (SBU) Summary: State Department Special Representative for Commercial and Business Affairs Frank Mermoud supported our strong commercial relationship and highlighted how a free trade agreement would enhance trade and investment during his January 29-31 visit to the UAE. His interlocutors expressed optimism at the opportunities of a Free Trade Agreement between the U.S. and the UAE, but articulated concerns on specific points. Major areas of concern for American businesses remain the Agency and Companies Laws, property ownership, and broader issues of enforceability and transparency. Emirati business leaders focused on potential changes to the legal framework that have long supported UAE nationals, particularly the Agency and Companies Law, and their concerns about whether changes to the law will apply to only American companies or be a blanket change. End Summary.

12. (U) Special Representative Mermoud discussed trade liberalization with UAEG officials and U.S. and UAE business representatives during his January 29-31 visit in Abu Dhabi and Dubai. He met with Chairman of the Abu Dhabi Department of the Economy, Sheikh Hamed bin Zayed; Ministry of Economy Assistant Under Secretary for International Cooperation, Abdullah Al-Saleh, Mubadala COO and Abu Dhabi Executive Committee Member, Khaldoon Al-Mubarak, Director General of the Abu Dhabi Chamber of Commerce Mohammed Abdullah, and a number of U.S. and Emirati business representatives.

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UAE Perspectives on FTA  
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13. (SBU) Chairman of the Abu Dhabi Department of Economy

Sheikh Hamed bin Zayed al-Nahyan (a younger half-brother of UAE President Sheikh Khalifa) emphasized the UAE's commitment to a bilateral FTA. He cited the example of the long stalled GCC-EU trade agreement negotiations as an example of the difficulty of achieving agreements with the GCC. Sheikh Hamed told Mermoud that the UAEG had asked the Europeans to abandon the GCC-EU process in favor of bilateral approaches with GCC countries. (Note: French DCM confirmed to DCM February 1 that the UAEG had approached France, UK and Germany with this request. End note.).

14. (SBU) Both public and private sector Emiratis saw an FTA as an opportunity, and not a threat,<sup>8</sup> however they voiced some concerns about the impact of a repeal of Agency and Companies Laws. Although many Emiratis said they were willing to do this for American companies (even though some people would be adversely affected by this decision), they expressed opposition to repealing these laws for all foreign companies. In particular, Emiratis expressed security and economic concerns if Indian or Pakistani companies (which are the two largest expatriate groups in the UAE) were able to operate independently of an Emirati partner since they could quickly dominate the local economy.

15. (SBU) Abu Dhabi Chamber of Commerce Director General Mohammed Omar Abdullah commented that an FTA would bring long-term benefits to the UAE. He was more concerned about the immediate impact on UAE businesses, since the largest markets for Emirati businesses lie in Asia or other GCC countries, and production capacity in the UAE is limited. He stressed that the UAE would need to plan how to take full advantage of the opportunity afforded by the FTA. Khaldoon Al Mubarak, COO of Mubadala Development and a member of the Abu Dhabi Executive Council, was enthusiastic about being a partner to the USG and US private sector since they have had historically good working relationships with US companies. A Mubadala subsidiary, Liwa Petroleum, recently partnered with Occidental Petroleum (one of its Dolphin partners) to win 9 of 15 exploration blocks in Libya. Liwa Petroleum is a 10 percent minority partner with Oxy.

16. (C) Assistant Under Secretary for International Cooperation at the Ministry of Economy and Planning, Abdullah Al Saleh (protect), noted that the UAE was already engaged in a step by step process to liberalize sectors of the economy by privatizing and allowing greater foreign investment and ownership, for example. He said that he thought the UAE would be able to open up most sectors to American businesses, but stressed that some sectors, such as energy, would be much more difficult for the UAE to liberalize. However, he noted that while the individual emirates retain ownership of the energy sector, the UAE has historically entered into production sharing agreements with foreign partners. Al-Saleh stated that the UAE is already opening up the insurance sector and noted that he thought the U.S. companies could have more access to the medical services sector, but that the UAE would not want to open that sector up completely to other countries, such as India.

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American Perspectives - FTA Should Resolve Agencies Law  
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17. (SBU) While enthusiastic about the prospect of a Free Trade Agreement, local American businesspeople in Abu Dhabi and Dubai told Mermoud about specific issues they wanted to see addressed. They raised the most concern about the Agency and Companies laws. While some companies are happy with their Emirati sponsors or agents and would choose to keep them, many Americans noted that UAE law and practice made it almost impossible to terminate an agency relationship with a non-performing sponsor. A concern for some companies with high levels of intellectual property was the potential that an Emirati partner who controlled 51 percent of the business in the UAE could gain access to their trade secrets.

18. (SBU) American businesspeople also expressed concern about inability to own property. In the context of industrial property, one American compared it to building

on quicksand<sup>8</sup> since a company cannot own its factories or other physical plants. For companies with a long term presence, steadily rising rents are becoming a major cost.

¶9. (SBU) Another U.S. business concern is the issue of enforcement mechanisms, and transparency. Several people raised concerns that amending laws and regulations would not remedy problems unless there are sufficient enforcement mechanisms and political will to carry them out. Specifically, they questioned whether close personal relationships among Emirati business leaders would continue to trump legal rights. U.S. businessmen cited cases where &personal contacts<sup>8</sup> among Emiratis resulted in stopping or delaying payment on an irrevocable letter of credit.

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Abu Dhabi Investment Plans  
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¶10. (SBU) Sheikh Hamed also discussed Abu Dhabi's development and privatization plans, emphasizing his view that the region needs economic reform before political reform. He stated Abu Dhabi's privatization strategy is to develop strategic industries that produce intermediate products such as steel, aluminum, and chemical products. Abu Dhabi plans to privatize small and medium companies (under the Sheikh Khalifa Program for small and medium enterprises) which could then utilize the products from the strategic enterprises. He also stated a commitment to privatizing the services sector and projects involving businesswomen in this second stage of development. Abu Dhabi also plans to introduce public and private partnership schemes. They have begun a pilot program to encourage international investment in the construction industry using a Build-Own-Operate model.

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Visas  
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¶11. (SBU) Both Emiratis and U.S. businesses took advantage of Mermoud's visit to raise concerns about visas and treatment in the U.S. The US educated CEO of the Abu Dhabi Securities and Commodities Authority said he had hoped to send his son to Harvard, but his son was insisting on studying in Australia which he saw as a more welcoming environment for Arab students. Several U.S. business representatives stressed that they were losing business because their Emirati colleagues perceived the visa and border process as time-consuming and difficult. Mermoud stressed that the President was aware of the problem and had instructed US agencies to improve our visa procedures while protecting homeland security. He noted that the process has improved considerably over the past two years.

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Taxes  
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¶12. (U) U.S. businesses also argued for a continuation of the Foreign Earned Income Exclusion. They argued passionately that repealing this exclusion would only serve to assist other countries, which do not tax their expatriates. They explained that American workers overseas are excellent promoters of U.S. products and responsible for exports. Unfortunately, many Americans are being priced out of the market. Repealing the exemption will only exacerbate the problem, they said.

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Comment  
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¶13. (SBU) Overall, all parties were optimistic about the possibilities of a Free Trade Agreement for boosting trade and investment between the U.S. and UAE. Some individuals expressed concerns about specific clauses of an FTA that could impact their interests. Mermoud's visit served to raise the profile of the FTA, in a positive way, in advance

of the upcoming negotiations.  
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